

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

JOSHUA ADAM SCHULTE,

Defendant.

17-CR-548 (JMF)

ORDER


JESSE M. FURMAN, United States District Judge:

On November 19, 2021, Defendant filed a letter motion challenging the Government's classification and redaction of a September 30, 2021 letter, the redacted version of which is filed at ECF No. 595. In a letter dated November 23, 2021 (received by the Court on November 29, 2021), Defendant similarly challenged the classification of his Motion to Dismiss Counts Three and Four, the redacted version of which is filed at ECF No. 597. Both letter motions are currently undergoing classification review. *See* ECF Nos. 612, 602. The Court ordered the Government to respond. ECF No. 613. On December 1, 2021, the Government filed a response addressing both motions. ECF No. 619.

For substantially the reasons stated in the Government's letter, the Court concludes that there is neither authority nor basis to second guess the Executive Branch's classification determinations.¹ Accordingly, Defendant's motions are DENIED.

SO ORDERED.

Dated: December 3, 2021
New York, New York



JESSE M. FURMAN
United States District Judge

¹ That is not to say that the Defendant is off base in questioning some of the Government's classifications. From the Court's perspective, it is hard to understand why some of the redacted information would be classified. (That said, the Government is in a better position than the Court to understand the full picture, which is precisely why courts should hesitate to second guess classification determinations made by the Executive Branch.) The Court urges the Government to re-review the classifications questioned by Defendant — and, more generally, to ensure that any classifications going forward are proper and narrowly tailored.